

9-1-102. Definitions.

As used in this title:

- (1) "Executive director" means the executive director of the Department of Heritage and Arts.
- (2) "Department" means the Department of Heritage and Arts.

Amended by Chapter 212, 2012 General Session

9-1-201. Department of Heritage and Arts -- Creation -- Powers and duties.

- (1) There is created the Department of Heritage and Arts.
- (2) The department shall:
 - (a) be responsible for preserving and promoting the heritage of the state, the arts in the state, and cultural development within the state;
 - (b) perform heritage, arts, and cultural development planning for the state;
 - (c) coordinate the program plans of the various divisions within the department;
 - (d) administer and coordinate all state or federal grant programs which are, or become, available for heritage, arts, and cultural development;
 - (e) administer any other programs over which the department is given administrative supervision by the governor;
 - (f) submit, before November 1, an annual written report to the governor and the Legislature; and
 - (g) perform any other duties as provided by the Legislature.
- (3) The department may solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor.
- (4) Money received under Subsection (3) shall be deposited in the General Fund as restricted revenues of the department.

Amended by Chapter 255, 2013 General Session

9-1-201.1. Executive director of department -- Appointment -- Removal -- Compensation.

- (1) The department shall be directed, organized, and managed by an executive director appointed by the governor with the consent of the Senate.
- (2) The executive director serves at the pleasure of the governor.
- (3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Enacted by Chapter 212, 2012 General Session

9-1-201.2. Organization of department -- Jurisdiction of executive director.

The executive director:

- (1) may organize the department in any fashion considered appropriate, unless otherwise expressly provided by statute; and
- (2) may consolidate personnel and service functions to effectuate efficiency and

economy within the department.

Enacted by Chapter 212, 2012 General Session

9-1-202. Cooperation with other agencies and organizations.

In carrying out the provisions and purposes of this title, the department shall cooperate with, and make use of, the facilities and services of existing private or public agencies, corporations, persons, companies, or organizations to the fullest extent possible, and all state agencies, bureaus, or departments within their capabilities shall render full and complete cooperation to the department.

Renumbered and Amended by Chapter 241, 1992 General Session

9-1-203. Compliance with Administrative Procedures Act.

The department and all of its divisions, boards, offices, bureaus, commissions, and other entities shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

9-1-801. Title.

This part is known as the "Commission on National and Community Service Act."

Enacted by Chapter 119, 1994 General Session

9-1-802. Definitions.

(1) "Act" means the National Community and Service Trust Act of 1993, 42 U.S.C. 12501 et seq.

(2) "Commission" means the Utah Commission on Service and Volunteerism created in Section 9-1-803.

(3) "Corporation" means the Corporation for National and Community Service described in the act.

Amended by Chapter 38, 2013 General Session

9-1-803. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

(1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.

(2) The 19 voting members of the commission are:

(a) the lieutenant governor;

(b) the commissioner of higher education or the commissioner's designee;

(c) the state superintendent of public instruction or the superintendent's designee;

(d) the executive director of the Department of Heritage and Arts or the executive director's designee;

- (e) nine members appointed by the governor as follows:
 - (i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;
 - (ii) an individual with experience in promoting the involvement of older adults in volunteer service;
 - (iii) a representative of a community-based agency or organization within the state;
 - (iv) a representative of local government;
 - (v) a representative of a local labor organization in the state;
 - (vi) a representative of business;
 - (vii) an individual between the ages of 16 and 25 who participates in a volunteer or service program;
 - (viii) a representative of a national service program; and
 - (ix) a representative of the volunteer sector; and
- (f) six members appointed by the governor from among the following groups:
 - (i) local educators;
 - (ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;
 - (iii) representatives of Native American tribes;
 - (iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or
 - (v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.
- (3) The nonvoting member of the commission is the state representative of the corporation.
- (4) (a) In appointing persons to serve on the commission, the governor shall ensure that:
 - (i) no more than 10 voting members of the commission are members of the same political party; and
 - (ii) no more than five voting members of the commission are state government employees.
- (b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, and disability characteristics.
- (5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a three-year term.
- (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately one-third of the commission is appointed every year.
- (6) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.
- (7) A member appointed by the governor may not serve more than two consecutive terms.
- (8) A member may not receive compensation or benefits for the member's

service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 38, 2013 General Session

9-1-805. Election of commission chair and vice chair.

(1) The voting members of the commission shall elect a chair and a vice-chair from among the voting members of the commission.

(2) The chair and vice-chair shall serve for a term of one year.

Amended by Chapter 38, 2013 General Session

9-1-806. Commission chair and vice chair duties.

(1) The chair shall:

- (a) preside at meetings of the commission; and
- (b) authorize and execute the actions of the commission.

(2) The vice-chair shall:

- (a) assist the chair;
- (b) if the chair is absent, perform the duties of the chair;
- (c) accept special assignments from the chair; and
- (d) perform other duties as delegated by the commission.

Amended by Chapter 38, 2013 General Session

9-1-808. Meetings -- Quorum.

(1) The commission shall meet at least quarterly.

(2) A voting member of the commission who fails to attend at least 75% of called meetings in a calendar year is automatically removed from the commission.

(3) A commission quorum is a simple majority of the voting members.

Amended by Chapter 38, 2013 General Session

9-1-809. Commission duties.

(1) The commission shall:

(a) assist in the selection, development, and oversight of programs funded and established by the act;

(b) pursue opportunities for sustainable and high-impact community service;

(c) develop and annually update a three-year community service plan for the state, including the establishment of state priorities; and

(d) stimulate increased community awareness of the impact of volunteer service in the state.

(2) (a) The commission may, subject to Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept private

gifts, donations, or funds from any source.

(b) Money received under this Subsection (2) shall be deposited with the state and shall be available to the commission to carry out the purposes of this part.

Amended by Chapter 38, 2013 General Session

9-1-810. Reporting and administration.

(1) The commission shall report to the office of the lieutenant governor.

(2) The Department of Heritage and Arts shall provide administrative and staff support services to the commission.

Amended by Chapter 38, 2013 General Session

9-1-811. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Heritage and Arts may make rules to:

(1) implement this part; and

(2) ensure the commission complies with the act and related federal requirements.

Repealed and Re-enacted by Chapter 38, 2013 General Session

9-6-102. Definitions.

As used in this chapter:

(1) "Advisory board" means the Museum Services Advisory Board created in Section 9-6-604.

(2) "Board" means the Board of Directors of the Utah Arts Council created in Section 9-6-204.

(3) "Council" means the Utah Arts Council created in Section 9-6-301.

(4) "Director" means the director of the Division of Arts and Museums.

(5) "Division" means the Division of Arts and Museums.

(6) "Museum" means an organized and permanent institution that:

(a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

(d) exhibits the collection to the public on a regular schedule.

(7) "Office" means the Office of Museum Services created in Section 9-6-602.

(8) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:

(i) local governments;

(ii) other government agencies;

(iii) private organizations, including not-for-profits; or

(iv) persons in the form of a loan or grant.

(b) The funding may be:

(i) general funds, federal funds, dedicated credits, or any combination of funding

sources; and

- (ii) ongoing or one-time.

Amended by Chapter 212, 2012 General Session

9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall advance the interests of the arts, in all their phases, within the state, and to that end shall:

(a) cooperate with and locally sponsor federal agencies and projects directed to similar undertakings;

(b) develop the influence of arts in education;

(c) involve the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in these endeavors;

(d) utilize broadcasting facilities and the power of the press in disseminating information; and

(e) foster, promote, encourage, and facilitate, not only a more general and lively study of the arts, but take all necessary and useful means to stimulate a more abundant production of an indigenous art in this state.

(4) The board shall set policy to guide the division in accomplishing the purposes set forth in Subsection (3).

(5) The division may not grant funds for the support of any arts project under this section unless the project has been first approved by the board.

(6) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (6)(a); and

(ii) include reporting requirement instructions with the form.

Amended by Chapter 111, 2010 General Session

9-6-202. Division director.

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the board and the advisory board.

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for:

(a) the Board of Directors of the Utah Arts Council created in Section 9-6-204;

(b) the Utah Arts Council created in Section 9-6-301;

- (c) the Office of Museum Services created in Section 9-6-602; and
- (d) the Museum Services Advisory Board created in Section 9-6-604.

Amended by Chapter 212, 2012 General Session

9-6-203. Division powers relating to property.

- (1) The division may:
 - (a) take by purchase, grant, gift, devise, or bequest, any property, real or personal, for any purpose appropriate to its objects; and
 - (b) convert property received by gift, grant, devise, or bequest and not suitable for its uses, into other property so available or into money.
- (2) The property received or converted under Subsection (1) shall be held, invested, and managed and its proceeds used by the division for the purposes and under the conditions prescribed in the grant or donation.
- (3) If by the terms of any grant, gift, devise, or bequest, conditions are imposed that are impracticable under the law, the grant or donation does not fail but the conditions shall be rejected and the intent of the grantor or donor carried out as nearly as may be.
- (4) A grant, gift, devise, or bequest for the benefit of the division may not be defeated or prejudiced by any misnomer, misdescription, or informality if the intention of the grantor or donor can be shown or ascertained with reasonable certainty.

Amended by Chapter 378, 2010 General Session

9-6-204. Utah Arts Council Board of Directors.

- (1) There is created within the division the Board of Directors of the Utah Arts Council.
- (2) (a) The board shall consist of 13 members appointed by the governor to four-year terms of office with the consent of the Senate.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (c) Nine board members shall be working artists in the following areas:
 - (i) visual arts;
 - (ii) architecture or design;
 - (iii) literature;
 - (iv) music;
 - (v) sculpture;
 - (vi) folklore or folk arts;
 - (vii) theatre;
 - (viii) dance; and
 - (ix) media arts.
- (d) Four board members shall be citizens knowledgeable in the arts.
- (3) The members shall be appointed from the state at large with due consideration for geographical representation.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor within one month from the time of vacancy.

(5) Seven members of the board constitute a quorum for the transaction of business.

(6) The governor shall annually select one of the board members as chair.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member may not receive gifts, prizes, or awards of money from the purchasing fund of the division during the member's term of office.

Amended by Chapter 212, 2012 General Session

9-6-205. Board powers and duties.

(1) The board may:

(a) make, amend, or repeal rules for the conduct of its business in governing the council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) receive gifts, bequests, and property; and

(c) issue certificates and offer and confer prizes, certificates, and awards for works of art and achievement in the arts.

(2) The board shall make policy for the council.

(3) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible individuals and organizations under this part and Parts 3 through 5.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and the Legislature under Subsection (3)(a).

Amended by Chapter 212, 2012 General Session

9-6-301. Creation -- Members.

(1) There is created the Utah Arts Council.

(2) Members of the council may be of the following four classes:

(a) members of the board;

(b) honorary members;

(c) annual members; and

(d) life members.

Amended by Chapter 24, 2006 General Session

9-6-302. Honorary life membership.

(1) Any person who submits to the board a work of art executed by himself which is accepted by the board shall, by the tender and acceptance of that work of art and on receipt of a certificate of membership issued by the board, become an honorary member for life.

(2) The board may also confer an honorary life membership for outstanding achievement in art, literature, or music upon any resident of the state.

Amended by Chapter 4, 1993 General Session

Amended by Chapter 78, 1993 General Session

9-6-303. Annual members -- Fees.

Each patron of the arts or anyone interested in them shall, upon payment of a membership fee determined by the board by rule, and if elected by the board, receive a certificate of membership for one year and become an annual member.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-304. Annual membership for life -- Fees.

Each person, upon payment of a lifetime membership fee determined by the board by rule, and if elected by the board, shall have all the privileges of annual membership for life.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-305. Art collection committee.

(1) The board shall appoint a committee of artists or judges of art to take charge of all works of art acquired under this chapter. This collection shall be known as the Utah State Alice Art Collection.

(2) (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the board shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the board shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the board is appointed every two years.

(3) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 212, 2012 General Session

9-6-306. Collection.

(1) All works of art acquired under this part shall become part of the Utah State Alice Art Collection.

(2) The art collection shall be held as the property of the state, under control of the division, and may be loaned in whole or in part for exhibition purposes to different parts of the state according to rules prescribed by the board.

(3) The division shall take every precaution to avoid damage or destruction to the property of the institute and the art works submitted by exhibitors and shall procure ample insurance on them.

(4) All art works shipped to and from the place of exhibition shall be packed by an expert packer.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-307. Application of funds received by council.

All money received by the council shall be applied or expended in the furtherance of the arts as ordered by the director under policies established by the board.

Amended by Chapter 24, 2006 General Session

9-6-401. Short title.

This part is known as the "Utah Percent-for-Art Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-402. Purpose.

This part is designed to:

(1) establish a program which administers that portion of appropriations for capital expenditures which is set aside for the acquisition of works of art used for public buildings;

(2) enhance the quality of life in the state by placing art of the highest quality in public spaces where it is seen by the general public;

(3) promote and preserve appreciation for and exposure to the arts; and

(4) foster cultural development in the state and encourage the creativity and talents of its artists and craftspeople.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-403. Definitions.

As used in this part:

(1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the artist's peers as a professional who is committed to producing high quality work

on a regular basis, and who is not the project architect or a member of the project's architectural firm.

(2) "Acquired or constructed" means acquired, constructed, reconstructed, restored, enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part with state funds.

(3) "Contracting agency" means the state agency which is responsible for supervising the principal user of a state building or facility.

(4) "Principal user" means the department, board, commission, institution, or agency of the state for the principal use of which a state building or facility is acquired or constructed.

(5) "Program" means the Percent-for-Art Program created in this part.

(6) "Project" means the project whereby state buildings or facilities are acquired or constructed.

(7) (a) "State building or facility" means a state building, permanent structure, facility, park, or appurtenant structure thereof, wholly or partially enclosed, which includes, but is not restricted to a space or facility used or to be used for carrying out the functions of a department, board, commission, institution, or agency of the state, including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms, classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest areas.

(b) "State building or facility" does not include motor pools, heating plants, sheds, sewers, parking lots, bridges, highways, or buildings used solely for storage or warehousing.

(8) "Work of art" or "works of art" means any form of original creation of visual art including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain, painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic, supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

Amended by Chapter 4, 1993 General Session

9-6-404. Creation of program -- Use of appropriations.

(1) A Percent-for-Art Program shall be administered by the division.

(2) Any appropriation received by the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division. Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-405. Procedures, guidelines, and rules.

(1) The division shall follow these guidelines in administering the program:

(a) Works of art shall be acquired under the program for use only with respect to those buildings or facilities that the division determines have significant public use or access, especially where the design and technical construction of the building or facility lend themselves to works of art. All funds set aside and administered by the program from appropriations for any state building or facility of which any part is obtained from

the issuance of bonds shall be used only to acquire works of art that will be placed in or at, and remain a part of, that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on the bonds.

(b) The goal of the division in administering the program is to fairly distribute works of art throughout the various social, economic, and geographic communities of the state.

(c) The division shall give first preference to Utah artists, and to artists from other states which have similar percent-for-art programs and demonstrate a reciprocal preference for Utah artists.

(d) The division shall involve the director of the Division of Facilities Construction and Management, or the director's designee, and the project architect in the process of screening or selecting works of art or artists to create works of art for each project and shall involve in that process representatives from the project's principal user or contracting agency, the community in which the project is located, and the art profession. The project's principal user or contracting agency shall have representation at least equal to any other entity on the selection committee, as designated by the project's president or director. Any selection and placement of art shall be by a majority decision of the user agency representatives on the committee and a majority decision of the entire committee. The selection and placement shall be approved by the president or director of the principal user.

(e) Any relocation of art placed under this program shall be done with the participation from the division and the Division of Facilities Construction and Management and with approval from the president or director of the principal user.

(f) The costs of administering the program and conserving and maintaining all works of art placed under the program are limited to 15% of the funds deposited in the Utah Percent-for-Art Account.

(2) The division shall adopt procedures, guidelines, and rules as necessary to implement this chapter and administer the program.

Amended by Chapter 378, 2010 General Session

9-6-406. Director to enter into contracts.

The director may enter into contracts on behalf of the division to acquire works of art and to commission artists for the creation of works of art as selected by the division or committees established by the division, and may sue and be sued in the name of the division upon these contracts.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-407. Title to work of art vests in the name of the state -- Title subject to restrictions and interests.

(1) Title to a work of art acquired by or created for the program vests upon its completion, installation, and final acceptance in the division in the name of the state.

(2) Title to a work of art acquired from appropriations for any state building or facility of which any part is obtained from the issuance of bonds, and placed in or at that building or facility, is subject to the same restrictions and interests as title to that

building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on those bonds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-408. Division responsible for maintenance and security.

The division is responsible, in cooperation with the contracting agency, for the conservation, maintenance, and security of all works of art placed in or at each state building or facility under the program.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-409. Rights of artist commissioned by program.

An artist who is commissioned by the program to create a work of art has the following rights with respect to that work of art:

- (1) all rights secured to the artist under federal copyright laws;
- (2) the right to claim authorship of the work of art;
- (3) the right to photographic reproduction of the work of art;
- (4) the right of first refusal:
 - (a) to conduct all repair and conservation work on the work of art in accordance with accepted principles of professional conservation; and
 - (b) to purchase the work of art if the state decides to sell it; and
- (5) the right to deny further association of the artist's name with or authorship of the work of art if conservation or repair work is done by a person other than the artist, which in the opinion of the artist damages its integrity.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-501. Definitions.

As used in this part:

- (1) "Endowment fund" means any arts endowment fund created under this chapter by a qualifying organization.
- (2) "Qualifying organization" means any Utah nonprofit arts organization that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.
- (3) "State fund" means the Utah Arts Endowment Fund created under Section 9-6-502.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-502. Utah Arts Endowment Fund.

- (1) There is created an expendable special revenue fund known as the "Utah Arts Endowment Fund."
- (2) The state fund shall be administered by the board in accordance with applicable law.

(3) Any administrative costs incurred by the board shall be reviewed by the appropriate appropriations committee of the Legislature.

(4) The state fund shall contain all money appropriated to it by the Legislature, all federal funds received for purposes of this part, plus interest and other income earned on them.

(5) The purpose of the state fund is to provide money to qualifying arts organizations to enable them to create their own arts endowment funds and to the board to administer the state fund.

Amended by Chapter 400, 2013 General Session

9-6-503. Arts organization endowment funds.

(1) Any Utah nonprofit arts organization may create an endowment fund into which there may be deposited money from the state fund. The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the council on behalf of the qualifying organization. Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization. The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

(2) If a qualifying organization receives \$50,000 or more from the state fund, the money shall be administered in accordance with generally accepted accounting principles by the qualifying organization's professional management. Amounts less than \$50,000 shall be placed in a state trust and agency fund invested by the state treasurer, who shall allocate interest income to the qualifying organization.

(3) If an endowment fund is invested by the state treasurer the costs for this administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization.

Amended by Chapter 342, 2011 General Session

9-6-504. Duties of board.

The board shall:

(1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-6-503;

(2) determine the eligibility of each qualifying organization to receive money from the state fund into the endowment fund of the qualifying organization and be the final arbiter of eligibility;

(3) determine the matching amount each qualifying organization shall raise in order to qualify to receive money from the state fund;

(4) establish a date by which each qualifying organization shall provide its matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria by rule not otherwise prescribed in this chapter for determining the

eligibility of qualifying organizations to receive money from the state fund.

Amended by Chapter 378, 2010 General Session

9-6-505. Eligibility requirements of qualifying arts organizations -- Allocation limitations -- Matching requirements.

(1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund it has created under Subsection 9-6-503(1):

(a) if it has received a grant from the board during one of the three years immediately before making application for state fund money under this Subsection (1); or

(b) upon approval by the board if it has not received a grant from the board within the past three years.

(2) (a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the board by calculating the average cash income of the qualifying organization during the past three fiscal years as contained in the qualifying organization's final reports on file with the board. The board shall notify each qualifying organization of the maximum amount of money from the state fund for which it qualifies.

(b) The minimum amount that may be allocated to each qualifying organization from the state fund is \$2,500.

(c) If the maximum amount for which the organization qualifies is less than \$2,500, the organization may still apply for \$2,500.

(3) After the board determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the state fund, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose. State money, in-kind contributions, and preexisting endowment gifts may not be used to match money from the state fund.

(4) Endowment match money shall be based on a sliding scale as follows:

(a) any amount requested not exceeding \$100,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed \$100,000 but not exceed \$500,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed \$500,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount within three years after applying for money from the state fund by a date determined by the board.

(b) Money from the state fund shall be released to the qualifying organization only upon verification by the board that the matching money has been received on or before the date determined under Subsection (5)(a). Verification of matching funds shall be made by a certified public accountant.

(c) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than \$20,000 as audited confirmation of matching funds is received by the board.

(d) Money from the state fund shall be granted to each qualifying organization

on the basis of the matching funds it has raised by the date determined under Subsection (5)(a).

Amended by Chapter 324, 2010 General Session

9-6-506. Unallocated money.

Money in the state fund that is unallocated shall be reallocated by the board on a proportionate basis to qualifying organizations that raise 100% of their required match by the date determined under Subsection 9-6-505(5)(a).

Amended by Chapter 342, 2011 General Session

9-6-507. Spending restrictions -- Return of endowment.

(1) A qualifying organization, once it has received its endowment money from the state fund, may not expend any of those money or the required matching money in its endowment fund, but may expend only the interest income earned on the money in its endowment fund.

(2) If the board determines that a qualifying organization has expended any amount of the endowment money received from the state fund or any amount of the required matching money, the qualifying organization shall return the amount it received from the state fund. The board shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-6-506.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-508. Federal match.

The creation of the state fund and the use of its money to enable qualifying organizations to create their own endowment funds may be construed as a state match for any arts funding from the federal government that may be provided.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-602. Office of Museum Services created -- Purpose.

(1) There is created within the Division of Arts and Museums the Office of Museum Services.

(2) The office shall assist Utah museums in improving their ability to:

- (a) care for and manage collections;
- (b) develop quality educational resources such as exhibitions, collections, and publications; and
- (c) provide access to collections for research.

Renumbered and Amended by Chapter 24, 2006 General Session

9-6-603. Duties of office.

(1) The office shall:

- (a) recommend to the Museum Services Advisory Board:

- (i) policies regarding:
 - (A) a grants program; and
 - (B) the equitable dissemination of office technical assistance; and
 - (ii) guidelines for determining eligibility for office grants;
 - (b) advise state and local government agencies and employees regarding museum related issues, including museum capital development projects;
 - (c) provide to Utah museums technical advice and information about sources of direct technical assistance;
 - (d) assist and advise Utah museums in locating sources of training for their museum staff members;
 - (e) develop and coordinate programs, workshops, seminars, and similar activities designed to provide training for staff members of Utah museums;
 - (f) undertake scholarly research as necessary to understand the training needs of the museum community and to assess how those needs could best be met;
 - (g) administer a state Museum Grant Program to assist eligible Utah museums; and
 - (h) establish a program by January 1, 2009, by rule, creating a certified local museum designation, including any provisions necessary to ensure public confidence in charitable solicitation undertaken by a certified local museum.
- (2) (a) For a pass-through funding grant of at least \$25,000, the office shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the office receiving a quarterly progress report from the pass-through grant recipient.
- (b) The office shall:
 - (i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (2)(a); and
 - (ii) include reporting requirement instructions with the form.

Amended by Chapter 111, 2010 General Session

9-6-604. Museum Services Advisory Board -- Membership.

- (1) There is created the Museum Services Advisory Board.
- (2) The advisory board shall consist of 11 members appointed by the governor.
- (3) The governor shall ensure that the advisory board includes:
 - (a) at least six members who are qualified, trained, and experienced museum professionals, three of whom shall have a minimum of five years continuous paid work experience in a museum and be drawn from a list proposed by the Utah Museums Association;
 - (b) other persons with an interest in Utah's museums; and
 - (c) representation from throughout Utah.
- (4) (a) Advisory board members shall be appointed for terms of four years except that three shall initially be appointed for two years, four for three years, and four for four years.
 - (b) The members serve until their successors are appointed and qualified.
- (5) (a) The governor shall appoint the chair of the advisory board.
 - (b) The advisory board shall choose a vice chair from the advisory board's own

members.

(c) Members may be reappointed for one additional term only, unless the governor determines that unusual circumstances warrant a further term.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) Six members of the board constitute a quorum for the transaction of business.

(8) The advisory board shall meet at least once a year.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The department shall pay those expenses on warrant to the Division of Finance from money in the budget appropriated for that purpose.

Amended by Chapter 212, 2012 General Session

9-6-605. Advisory board -- Duties.

(1) The advisory board is the policymaking body for the office.

(2) The advisory board shall, in consultation with the director of the office:

(a) set policies and, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, make rules governing:

(i) the office grants program; and

(ii) the awarding of grants to assist Utah's eligible museums; and

(b) set eligibility guidelines for grants administered through the office.

(3) (a) By September 30 of each year, the advisory board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible museums under this part.

(b) The advisory board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The advisory board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and the Legislature under Subsection (3)(a).

Amended by Chapter 212, 2012 General Session

9-6-606. Office limitations.

The office may not:

(1) collect, manage, borrow, or purchase artifacts, objects, or other items for its own collection;

(2) operate its own exhibit or display area; or

(3) direct any action to be taken or make any mandatory policies to be followed

by an individual museum or its parent agency.

Renumbered and Amended by Chapter 24, 2006 General Session

9-6-701. Title.

This part is known as the "State-Owned Art Collections Inventory Study Program Act."

Enacted by Chapter 229, 2006 General Session

9-6-702. Definitions.

As used in this part:

(1) "Committee" means the State-Owned Art Collections Inventory Committee established under Section 9-6-704.

(2) "Program" means the State-Owned Art Collections Inventory Study Program established under Section 9-6-703.

(3) (a) "State" means the state of Utah, its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions including state institutions of higher education as defined under Section 53B-3-102.

(b) "State" does not include:

(i) the political subdivisions of the state; or

(ii) school districts.

(4) "Work of art" means visual art of any medium.

Enacted by Chapter 229, 2006 General Session

9-6-703. State-Owned Art Collections Inventory Study Program -- Division duties -- Funding for the study program.

(1) There is established the State-Owned Art Collections Inventory Study Program to study:

(a) providing a comprehensive electronic inventory of all state owned or held works of art, including each work of art's title, artist, medium, location, history, owner, condition, and one or more electronic images of each work of art;

(b) providing a publicly accessible and searchable Internet site of the electronic image of each work of art and other selected information in the inventory; and

(c) providing for the maintenance and tracking of the inventory, including the perpetual updating and improving of the inventory and its public accessibility.

(2) The division shall study, design, and plan a program in accordance with this part with the advice and assistance of the committee.

(3) The division shall study contracting with public and private entities as needed to implement the provisions of the program on a cost effective basis.

(4) The study program shall be funded from money:

(a) appropriated by the Legislature;

(b) private donations to the program; and

(c) other sources that may be made available to the program.

(5) The division, with the advice and assistance of the committee, shall establish a plan including the inventory scope, phases, and a budget for the implementation.

Enacted by Chapter 229, 2006 General Session

9-6-704. State-Owned Art Collections Inventory Program Committee -- Membership -- Chair -- Expenses -- Duties.

(1) There is created within the division the State-Owned Art Collections Inventory Committee.

(2) The committee consists of seven members who shall be experts in one or more aspect of the program as follows:

- (a) the director of the Utah Museum of Fine Arts, or a designee;
- (b) the director of the Utah Arts Council, or a designee;
- (c) the director of the Division of Risk Management, or a designee;
- (d) the director of the Utah Academic Library Consortium, or a designee;
- (e) the director of the Utah State Archives and Records Service, or a designee;
- (f) the director of the Division of Facilities Construction and Management; and
- (g) a member of the public with expertise in the area of web site or database design and administration appointed by the other members of the committee to serve at the pleasure of the committee.

(3) (a) The committee shall annually elect a chairperson from its membership.

(b) (i) The committee shall hold meetings as needed to carry out its duties.

(ii) A meeting may be held on the call of the chair or a majority of the committee members.

(c) Four committee members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the committee.

(4) A committee member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The division shall provide staff support to the committee.

(6) The funding of the committee shall be a separate line item to the division in the annual appropriations act.

(7) The committee shall:

(a) advise the division on the design and implementation of the inventory study program;

(b) monitor, advise, and make recommendations to the division to promote and ensure the efficient and effective plan for the inventory study program; and

(c) study promoting collaborative efforts to develop public awareness, public school curriculum, and teacher training materials on the provisions of the program.

Amended by Chapter 286, 2010 General Session

9-7-101. Definitions.

As used in this chapter:

- (1) "Division" means the State Library Division.
- (2) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which it is known locally.
- (3) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:
 - (i) local governments;
 - (ii) other government agencies;
 - (iii) private organizations, including not-for-profits; or
 - (iv) persons in the form of a loan or grant.(b) The funding may be:
 - (i) general funds, federal funds, dedicated credits, or any combination of funding sources; and
 - (ii) ongoing or one-time.
- (4) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.
- (5) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.
- (6) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.
- (7) "State agency" means the state, an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.
- (8) (a) "State publication" means a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction, issued or published by a state agency or political subdivision for distribution.
(b) "State publication" does not include correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society.

Amended by Chapter 111, 2010 General Session

9-7-201. State Library Division -- Creation -- Purpose.

- (1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.
- (2) The division shall be under the policy direction of the board.
- (3) The division shall function as the library authority for the state and is responsible for general library services, extension services, the preservation,

distribution and exchange of state publications, legislative reference, and other services considered proper for a state library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-202. Appointment of director.

(1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.

(2) The director shall have a degree from an institution approved by the American Library Association in library science and shall have demonstrated administrative ability.

Enacted by Chapter 241, 1992 General Session

9-7-203. Division duties.

(1) The division shall:

(a) establish, operate, and maintain a state publications collection, a digital library of state publications, a bibliographic control system, and depositories as provided in this part;

(b) cooperate with:

(i) other agencies to facilitate public access to government information through electronic networks or other means;

(ii) other state or national libraries or library agencies; and

(iii) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

(c) receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

(d) receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor, with the approval of the Division of Finance.

(2) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (2)(a); and

(ii) include reporting requirement instructions with the form.

Amended by Chapter 111, 2010 General Session

9-7-204. State Library Board -- Members -- Meetings -- Expenses.

(1) There is created within the department the State Library Board.

(2) (a) The board shall consist of nine members appointed by the governor.

(b) One member shall be appointed on recommendation from each of the

following agencies:

- (i) the State Office of Education;
 - (ii) the Board of Control of the State Law Library;
 - (iii) the Office of Legislative Research and General Counsel; and
 - (iv) the Utah System of Higher Education.
- (c) Of the five remaining members at least two shall be appointed from rural areas.

(3) (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) The members may not serve more than two full consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.

(6) Five members of the board constitute a quorum for conducting board business.

(7) The governor shall select one of the board members as chair who shall serve for a period of two years.

(8) The director of the State Library Division shall be executive officer of the board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

Amended by Chapter 324, 2010 General Session

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for its housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal

funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish them and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a depository library program by collecting state publications, and providing a bibliographic information system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be awarded to eligible libraries under this chapter.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

(i) the total grant amount requested in the list; and

(ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants through June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).

(3) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Amended by Chapter 111, 2010 General Session

9-7-206. State Library Donation Fund -- Deposits and fees.

(1) There is created an expendable special revenue fund entitled the "State Library Donation Fund" to receive bequests, gifts, and endowments of money.

(2) Any interest or proceeds realized from the use or disposition of property received by the division or interest on the fund itself shall be deposited in the State Library Donation Fund and used by the State Library Division for the purposes specified by the donor.

(3) All fees paid to the library and collections made due to damaged books or

through sale or exchange of books and other materials shall be deposited in the General Fund as dedicated credits for use by the State Library Division.

Amended by Chapter 400, 2013 General Session

9-7-207. Deposit of state publications.

(1) (a) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.

(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.

(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.

(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.

(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.

(4) (a) The division shall publish or make available to the public through electronic networks a list of state agency publications.

(b) The list shall be published periodically and distributed to depository libraries and the state archivist.

(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.

Amended by Chapter 81, 2006 General Session

9-7-208. Digital library for permanent public access.

(1) The division shall manage and maintain an online, web-accessible digital library for state publications.

(2) The division shall provide for permanent public access to the publications in the digital library.

(3) The library shall be accessible by agency, author, title, subject, keyword, and such other means as provided by the division.

(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.

(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.

Repealed and Re-enacted by Chapter 81, 2006 General Session

9-7-209. Depository libraries.

(1) Upon application, a library in this state may be designated as a depository

library by the division.

(2) To be designated as a depository library, a library shall contract with the division to:

- (a) provide adequate facilities for the storage and use of state publications;
- (b) render reasonable service without charge to patrons; and
- (c) provide reasonable access to state publications.

(3) A depository library shall receive at least one copy of all state publications issued by state agencies in a physical format.

(4) Each depository library shall have electronic network access to the bibliographic records and the state publications deposited with the division for the purposes of local preservation and providing local access.

Amended by Chapter 81, 2006 General Session

9-7-210. Micrographics and other copying and transmission techniques.

The division may use micrographics, computer files, electronic networks, or other copying or transmission techniques to meet the needs of the depository system.

Amended by Chapter 32, 1995 General Session

9-7-211. Local libraries -- Annual reports.

All municipal, city, county, and public school libraries shall submit an annual report to the director of the division on the condition and affairs of each library as required by the State Library Board.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-212. Contracts with nonpublic libraries.

The director of the division, subject to the direction and approval of the State Library Board, may contract with nonpublic libraries to receive their library services and to otherwise coordinate the state library program with those libraries.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-213. Rulemaking.

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

- (1) standards which shall be met by libraries to obtain and retain a designation as a depository library;
- (2) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;
- (3) standards for the certification of public librarians; and
- (4) standards for the public library online access policy required in Section 9-7-215.

Amended by Chapter 378, 2010 General Session

9-7-214. Intentionally defacing, injuring, destroying, or refusing to return property -- Misdemeanor.

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property belonging to the state library or loaned through its coordinating agencies or facilities, shall be guilty of a misdemeanor.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-215. Internet and online access policy required.

(1) As used in this section:

(a) "Child pornography" is as defined in Section 76-5b-103.

(b) "Harmful to minors" is as defined in Section 76-10-1201.

(c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that offers use of the Internet or an online service to the public unless the library:

(a) (i) has in place a policy of Internet safety for minors including the operation of a technology protection measure:

(A) with respect to any publicly accessible computer with Internet access; and

(B) that protects against access to visual depictions that are:

(I) child pornography;

(II) harmful to minors; or

(III) obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use of a computer by a minor; and

(b) (i) has in place a policy of Internet safety including the operation of a technology protection measure:

(A) with respect to any publicly accessible computer with Internet access; and

(B) that protects against access to visual depictions that are:

(I) child pornography; or

(II) obscene; and

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Amended by Chapter 320, 2011 General Session

9-7-216. Process and content standards for policy.

(1) (a) Each library's policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date. The library board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.

(b) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe. The library board may issue any other public notice it considers appropriate to inform the community about the policy.

(2) The policy shall:

(a) state:

(i) that it restricts access to Internet or online sites that contain material described in Section 9-7-215; and

(ii) how the library board intends to meet the requirements of Section 9-7-215;

(b) inform patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library; and

(c) inform patrons that procedures for use by patrons and staff to handle complaints about the policy, its enforcement, or about observed patron behavior have been adopted and are available for review at the library.

Amended by Chapter 193, 2004 General Session

9-7-217. Reporting.

The division shall submit an annual written report to the Economic Development and Workforce Services Interim Committee before November 1 regarding the compliance of library boards with Section 9-7-215.

Amended by Chapter 246, 2012 General Session

9-7-301. Board of control.

(1) There is created the board of control of the State Law Library consisting of the attorney general, legislative general counsel, and the chief justice of the Supreme Court.

(2) The members of the board may not receive salary, per diem, or expenses for their service.

Amended by Chapter 10, 1997 General Session

9-7-302. Public access -- Rules.

(1) The public shall have access to the State Law Library.

(2) The board of control may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with the provisions of this part.

Amended by Chapter 382, 2008 General Session

9-7-303. Withdrawing books.

- (1) Books may be taken from the State Law Library by:
 - (a) the members, officers, and staff of the Legislature;
 - (b) the officers and staff of the executive departments and of the several boards and commissions of the state government; and
 - (c) the justices of the Supreme Court, the judges of other state courts, and their staffs.
- (2) No other person may withdraw any book from the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-304. Book register -- Time limit.

- (1) The state law librarian shall keep a register of all books issued and returned, showing to whom issued, by whom returned, and the time issued and returned.
- (2) No book taken from the law library may be detained more than 10 days, except by permission of the state law librarian.

Amended by Chapter 176, 1998 General Session

9-7-305. Injury to and failure to return books -- Action.

- (1) If any person injures any book owned by the state law library or fails to return any book taken from the State Law Library, that person shall pay the state law librarian all loss or damage sustained because of the injury or failure to return, including costs and reasonable attorneys' fees.
- (2) The state law librarian, in behalf of the state, shall bring action in the name of the state for the collection of all damages sustained and all losses and penalties imposed under this section.

Amended by Chapter 176, 1998 General Session

9-7-307. Catalogue -- Rules.

The state law librarian shall catalogue all books, pamphlets, maps, charts, globes, papers, apparatus, and valuable specimens in the State Law Library and shall post in some conspicuous place a copy of the rules of the State Law Library. The catalogue shall be made available, whether electronically or in writing, to the persons entitled to withdraw books from the State Law Library under Section 9-7-303.

Amended by Chapter 176, 1998 General Session

9-7-308. Books to be stamped and labeled.

The state law librarian shall cause every book in the State Law Library to be labeled with a printed or stamped label containing the words "Utah State Law Library," and shall cause the same words to be written or stamped on one or more pages of each volume.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-309. Sale and exchange of books.

The state law librarian may sell or exchange any surplus or duplicate sets of books in the State Law Library and use the proceeds from the sale to purchase other books for the State Law Library.

Amended by Chapter 176, 1998 General Session

9-7-311. Wrongful withdrawal of books -- Penalty.

If any person not authorized by Section 9-7-303 takes a book from the State Law Library, either with or without the consent of the state law librarian, or violates any of the provisions of this part, that person shall be fined the full cost of replacing the book, plus \$50 for each book so taken.

Amended by Chapter 176, 1998 General Session

9-7-312. Disposition of fines and penalties.

All fines and penalties collected pursuant to the provisions of this part shall be paid into the state treasury for the benefit of the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-313. Law library self-help center.

(1) The Utah State Law Library shall establish a statewide self-help center to assist self-represented parties to achieve fair and efficient resolution of their cases.

(2) The self-help center shall be staffed or directed by persons admitted to the practice of law in this state. Self-help center personnel may not represent parties or give legal advice.

(3) The self-help center shall provide to the public and all parties:

(a) information about:

(i) the availability of mediation services, and legal advice and representation through pro bono legal services;

(ii) low cost legal services;

(iii) legal aid programs; and

(iv) lawyer referral services;

(b) information about resources provided by law libraries;

(c) court forms and instructions, and help completing forms;

(d) answers to questions about the law, court process, and options; and

(e) educational materials and other services consistent with the purpose of this statute and the direction of the Judicial Council, including programs in other agencies and organizations.

Enacted by Chapter 368, 2012 General Session

9-7-401. Tax for establishment and maintenance of public library -- City library fund.

(1) A city governing body may establish and maintain a public library.

(2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value of taxable property in the city. The tax is in addition to all taxes levied by cities and is not limited by the levy limitation imposed on cities by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes described in Subsection (2) shall:

(a) be levied and collected in the same manner as other general taxes of the city; and

(b) constitute a fund to be known as the city library fund.

(4) The city library fund shall receive a portion of:

(a) the uniform fee imposed by Section 59-2-404 in accordance with the procedures established in Section 59-2-404;

(b) the statewide uniform fee imposed by Section 59-2-405 in accordance with the procedures established in Section 59-2-405;

(c) the statewide uniform fee imposed by Section 59-2-405.1 in accordance with the procedures established in Section 59-2-405.1;

(d) the uniform statewide fee imposed by Section 59-2-405.2 in accordance with the procedures established in Section 59-2-405.2; and

(e) the uniform statewide fee imposed by Section 59-2-405.3 in accordance with the procedures established in Section 59-2-405.3.

Amended by Chapter 217, 2005 General Session

Amended by Chapter 244, 2005 General Session

9-7-402. Library board of directors -- Expenses.

(1) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.

(2) Only one member of the city governing body may be, at any one time, a member of the board.

(3) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-403. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director shall be appointed for a three-year term, or until the successor to that director is appointed. Initially, appointments shall be made for one-, two-, and three-year terms. Annually thereafter, the city governing body shall, before the first day of July of each year, appoint for a three-year term directors to take the place of the retiring directors.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The city governing body may remove any director for misconduct or neglect

of duty.

(5) Vacancies in the board of directors shall be filled for the unexpired term in the same manner as original appointments.

Amended by Chapter 10, 1997 General Session

9-7-404. Board powers and duties -- Library fund deposits and disbursements.

(1) The library board of directors may, with the approval of the city governing body:

(a) have control of the expenditure of the library fund, of construction, lease, or sale of library buildings and land, and of the operation and care of the library; and

(b) purchase, lease, or sell land, and purchase, lease, erect, or sell buildings for the benefit of the library.

(2) The board shall:

(a) maintain and care for the library;

(b) establish policies for its operation; and

(c) in general, carry out the spirit and intent of the provisions of this part.

(3) All tax money received for the library shall be deposited in the city treasury to the credit of the library fund, and may not be used for any purpose except that of the city library. These funds shall be drawn upon by the authorized officers of the city upon presentation of the properly authenticated vouchers of the library board. All money collected by the library shall be deposited to the credit of the library fund.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-405. Rules -- Use of library.

(1) The library board of directors shall make, amend, and repeal rules, not inconsistent with law, for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the city where located, subject to the rules adopted by the board. The board may exclude from the use of the library any person who willfully violates these rules. The board may extend the privileges and use of the library to persons residing outside of the city upon terms and conditions it may prescribe by rule.

Amended by Chapter 48, 2005 General Session

9-7-406. Reports to governing body and State Library Board.

The library board of directors shall:

(1) make an annual report to the city governing body on the condition and operation of the library, including a financial statement; and

(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-407. Librarian and other personnel.

(1) The library board of directors shall appoint a competent person as librarian to have immediate charge of the library with those duties and compensation for services that it determines. The librarian shall act as the executive officer for the library board.

(2) The board shall appoint, upon the recommendation of the librarian, other personnel as needed.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-408. Donations of money or property.

Any person desiring to make donations of money, personal property, or real estate for the benefit of any library shall have the right to vest the title to the money, personal property, or real estate in the board of directors. The donation shall be held and controlled by the board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property, and the board shall be held and considered to be trustees of the property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-409. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate, merge, or consolidate in providing library services.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-410. Consolidation with county library.

(1) If a city library consolidates with a county library, the city library board of directors shall convey all assets and, except as provided in Subsection (2), trust funds to the county library board of directors, and the city library shall cease operation.

(2) If a conveyance of trust funds under Subsection (1) would constitute a violation of the trust agreement governing the trust funds, conveyance of those funds is not required, and those funds may continue to be used in accordance with the trust agreement for any library facility specified in the trust agreement, even after the facility becomes a county library facility because of consolidation.

Amended by Chapter 46, 2005 General Session

9-7-501. Tax for establishment and maintenance of public library -- Library fund.

(1) A county legislative body may establish and maintain a public library.

(2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4. The tax is in addition to all taxes levied by

counties and is not limited by the levy limitation imposed on counties by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.

(3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Amended by Chapter 227, 1993 General Session

9-7-502. Library board of directors -- Expenses.

(1) (a) When the county legislative body decides to establish and maintain a county public library under the provisions of this part, the county executive shall, with the advice and consent of the county legislative body, appoint a library board of not less than five and not more than nine directors chosen from the citizens of the county and based upon their fitness for the office.

(b) When increasing membership on an existing library board, the county legislative body:

- (i) may not add more than two positions in any year; and
- (ii) when adding members, shall ensure that the terms of library board members are staggered so that approximately 1/4 of the board is selected each year.

(2) Only one member of the county legislative body may be, at any one time, a member of the board.

(3) Each director shall serve without compensation, but the actual and necessary expenses incurred in the performance of the director's official duties may be paid from library funds.

Amended by Chapter 45, 1994 General Session

9-7-503. Library board terms -- Officers -- Removal -- Vacancies.

(1) Each director shall be appointed for a four-year term, or until the director's successor is appointed. Initially, appointments shall be made for one-, two-, three-, and four-year terms, and one member of the county legislative body for the term of his elected office. Annually thereafter, the county executive body shall, before the first day of July of each year, appoint, with the advice and consent of the county legislative body, for a four-year term, one director to take the place of the retiring director.

(2) Directors shall serve not more than two consecutive full terms.

(3) The directors shall annually select a chairman and other officers.

(4) The county executive body may remove any director for misconduct or neglect of duty.

(5) Vacancies in the board of directors shall be filled for the unexpired terms in the same manner as original appointments.

Amended by Chapter 4, 1993 General Session

Amended by Chapter 78, 1993 General Session

Amended by Chapter 227, 1993 General Session

9-7-504. Library board duties -- Library fund deposits.

(1) The library board of directors shall, with the approval of the county executive and in accordance with county ordinances, policies, and procedures:

- (a) be responsible for:
 - (i) the expenditure of the library fund;
 - (ii) the construction, lease, or sale of library buildings and land; and
 - (iii) the operation and care of the library; and
- (b) purchase, lease, or sell land, and purchase, lease, construct, or sell buildings, for the benefit of the library.

(2) The board has those powers and duties as prescribed by county ordinance, including establishing policies for collections and information resources that are consistent with state and federal law.

(3) (a) All tax money received for the library shall be deposited in the county treasury to the credit of the library fund, and may not be used for any purpose except that of the county library.

(b) All money collected by the library shall be deposited to the credit of the library fund.

Amended by Chapter 378, 2010 General Session

9-7-505. Rules -- Use of library.

(1) The board shall make library rules in a manner consistent with county ordinances, policies, and procedures for the governing of the library.

(2) Each library established under this part shall be free to the use of the inhabitants of the area taxed for the support of the library, subject to the rules made as prescribed by county ordinance.

Amended by Chapter 47, 2003 General Session

9-7-506. Annual reports.

The library board of directors shall:

(1) make an annual report to the county executive and county legislative body on the condition and operation of the library, including a financial statement; and

(2) provide for the keeping of records required by the State Library Board in its request for an annual report from the public libraries, and submit that annual report to the State Library Board.

Amended by Chapter 227, 1993 General Session

9-7-507. Librarian and other personnel.

(1) (a) The library board of directors shall recommend to the county executive for appointment a competent person to serve as librarian.

(b) The county executive shall, within 30 days of the recommendation, either make the appointment or request that the board submit another recommendation.

(c) The librarian shall be an employee of the county subject to the personnel policies, procedures, and compensation plans approved by the county executive and county legislative body.

- (d) The librarian shall act as the executive officer for the library board.
- (2) (a) All library personnel are employees of the county.
- (b) The librarian or the librarian's designee shall hire library personnel in accordance with the county merit system, personnel policies and procedures, and compensation plans approved by the county executive and county legislative body.
- (3) As used in this section "librarian" means the county library director.

Amended by Chapter 47, 2003 General Session

9-7-508. Donations of money or property.

- (1) A person desiring to make a donation of money, personal property, or real estate for the benefit of a library has the right to vest the title to the money, personal property, or real estate in the county, designated for the benefit and purposes of the library.
- (2) The county shall hold donated personal property and real estate as prescribed by county ordinance according to the terms of the deed, gift, devise, or bequest of the property, and the county shall be the trustee of the property.

Amended by Chapter 47, 2003 General Session

9-7-509. Entities may cooperate, merge, or consolidate in providing library services.

Boards of directors of city libraries, boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate in providing library services or merge or consolidate under an interlocal agreement approved and implemented in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 47, 2003 General Session

9-7-510. Estimate of money.

- (1) The library board of directors shall furnish to the county executive and county legislative body, in writing, and prior to the time required by law to levy county taxes, an estimate of the amount of money necessary to establish, equip, and maintain the library, and to provide library services during the next ensuing fiscal year and shall certify the amount.
- (2) The county legislative body may, at the time and in the manner of levying other taxes, impose the levy, but the levy may not exceed in any one year .001 per dollar of taxable value of taxable property in the county.

Amended by Chapter 305, 1995 General Session

9-7-511. Library bonds -- Issuance of previously voted bonds.

- (1) When an election has been held in any county to authorize bonds of the county for the purpose of acquiring, improving, and extending a public library for the county, including the acquisition of equipment, furnishings, and books, and it was

specified in the proposition that the bonds are to be payable from ad valorem taxes to be levied on all taxable property in the county, and when the election has carried, but none of the bonds authorized have been issued, the bonds authorized to be issued at election may be issued and shall be payable from taxes to be levied without limitation as to rate or amount on all taxable property in the county, despite any provision of law to the contrary in effect at the time of the election.

(2) All county library bonds that have been authorized but not yet issued, all county library bond elections previously held and carried, and all proceedings in connection with them that were adopted for the authorization of the bonds are hereby validated, ratified, approved, and confirmed, and the bonds, when issued in accordance with the election and proceedings, shall be binding, legal, valid, and enforceable obligations of the county issuing them in accordance with their terms.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-102. Definitions.

As used in this chapter:

- (1) "Board" means the Board of State History.
- (2) "Director" means the director of the Division of State History.
- (3) "Division" means the Division of State History.
- (4) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.
- (5) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.
- (6) (a) "Pass-through funding" means funds appropriated by the Legislature to a state agency that are intended to be passed through the state agency to:
 - (i) local governments;
 - (ii) other government agencies;
 - (iii) private organizations, including not-for-profits; or
 - (iv) persons in the form of a loan or grant.(b) The funding may be:
 - (i) general funds, federal funds, dedicated credits, or any combination of funding sources; and
 - (ii) ongoing or one-time.
- (7) "Society" means the Utah State Historical Society.

Amended by Chapter 111, 2010 General Session

9-8-201. Division of State History -- Creation -- Purpose.

(1) There is created within the department the Division of State History under the administration and general supervision of the executive director or the designee of the executive director.

- (2) The division shall be under the policy direction of the board.
- (3) The division shall be the authority of the state for state history and shall perform those duties set forth in statute.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-202. Appointment of director.

- (1) The chief administrative officer of the division shall be a director appointed by the executive director with the concurrence of the board.
- (2) The director shall be experienced in administration and qualified by education or training in the field of state history.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-203. Division duties.

- (1) The division shall:
 - (a) stimulate research, study, and activity in the field of Utah history and related history;
 - (b) maintain a specialized history library;
 - (c) mark and preserve historic sites, areas, and remains;
 - (d) collect, preserve, and administer historical records relating to the history of Utah;
 - (e) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;
 - (f) edit and publish historical records;
 - (g) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;
 - (h) provide grants and technical assistance as necessary and appropriate; and
 - (i) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.
- (2) The division may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.
- (3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the division shall:
 - (a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;
 - (ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;
 - (iii) encourage the use of volunteers to help collect the information and to maintain the inventory;
 - (iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;
 - (v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and

monuments; and

(vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;

(b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) encourage cemetery owners to create and maintain geographic information systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to assure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) (a) For a pass-through funding grant of at least \$25,000, the division shall make quarterly disbursements to the pass-through funding grant recipient, contingent upon the division receiving a quarterly progress report from the pass-through grant recipient.

(b) The division shall:

(i) provide the pass-through grant recipient with a progress report form for the reporting purposes of Subsection (4)(a); and

(ii) include reporting requirement instructions with the form.

(5) This chapter may not be construed to authorize the division to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Amended by Chapter 111, 2010 General Session

9-8-204. Board of State History.

- (1) There is created within the department the Board of State History.
- (2) The board shall consist of 11 members appointed by the governor with the consent of the Senate as follows:
 - (a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and
 - (b) other persons with an interest in the subject matter of the division's responsibilities.
- (3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.
- (5) Six members of the board are a quorum for the transaction of business.
- (6) The governor shall select a chair and vice chair from the board members.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 286, 2010 General Session

9-8-205. Board duties and powers.

- (1) The board shall:
 - (a) make policies to direct the division director in carrying out the director's duties;
 - (b) approve the division's rules;
 - (c) assist the division in development programs consistent with this chapter;
 - (d) function as the State Review Board for purposes of the historic preservation program;
 - (e) recommend districts, sites, buildings, structures, and objects for listing on the State and National Historic Registers to the director;
 - (f) review and approve, if appropriate, matching grants under Subsection 9-8-203(3)(c)(ii); and
 - (g) function as the board of the society.
- (2) (a) By September 30 of each year, the board shall prepare and submit a request to the governor and the Legislature for prioritized capital facilities grants to be

awarded to eligible institutions under this chapter.

(b) The board shall prepare a list of the requested capital facilities grants in a prioritized order and include a written explanation of:

- (i) the total grant amount requested in the list; and
- (ii) the basis of its prioritization of requested grants on the list.

(c) The board shall accept applications for capital facilities grants by June 1 of each year, prior to compiling and submitting its yearly request to the governor and Legislature under Subsection (2)(a).

(3) The board may establish advisory committees to assist it and the division in carrying out their responsibilities under this chapter.

Amended by Chapter 111, 2010 General Session

9-8-206. Historical magazine, books, documents, and microfilms -- Proceeds.

(1) The division shall, under the direction of the board:

(a) compile and publish an historical magazine to be furnished to supporting members of the society in accordance with membership subscriptions or to be sold independently of membership; and

(b) publish and sell other books, documents, and microfilms at reasonable prices to be approved by the director.

(2) Proceeds from sales under this section shall be retained in the treasury of the society.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-207. Historical Society -- Donations -- Accounting.

(1) (a) There is created the Utah State Historical Society.

(b) The society may:

(i) solicit memberships from persons interested in the work of the society and charge dues for memberships commensurate with the advantages of membership and the needs of the society; and

(ii) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.

(2) If the donor directs that money or property donated under Subsection (1)(b)(ii) be used in a specified manner, then the division shall use it in accordance with these directions. Otherwise, all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.

(3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-301. Purpose.

(1) The Legislature declares that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources.

(2) (a) The Legislature finds that policies and procedures for the survey and excavation of archaeological resources from school and institutional trust lands are consistent with the school and institutional land grants, if these policies and procedures insure that primary consideration is given, on a site or project specific basis, to the purpose of support for the beneficiaries of the school and institutional land grants.

(b) The Legislature finds that the preservation, placement in a repository, curation, and exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

(c) The Legislature finds that the preservation and development of sites found on school or institutional trust lands for scientific or educational purposes, or the disposition of sites found on school or institutional trust lands, after consultation between the division and the School and Institutional Trust Lands Administration to determine the appropriate level of data recovery or implementation of other appropriate preservation measures, for preservation, development, or economic purposes, is consistent with the school and institutional land grants.

(d) The Legislature declares that specimens found on lands owned or controlled by the state or its subdivisions may not be sold.

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4 to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general welfare of the public and beneficiaries alike.

Amended by Chapter 145, 2005 General Session

9-8-302. Definitions.

As used in this part and Part 4, Historic Sites:

(1) "Agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the Division of State History created in Section 9-8-304.

(4) "Archaeological resources" means all material remains and their associations, recoverable or discoverable through excavation or survey, that provide information pertaining to the historic or prehistoric peoples of the state.

(5) "Collection" means a specimen and the associated records documenting the specimen and its recovery.

(6) "Curation" means management and care of collections according to standard professional museum practice, which may include inventorying, accessioning, labeling, cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original collections or reproductions, and providing access to and facilities for studying collections.

(7) "Curation facility" is defined as provided in Section 53B-17-603.

(8) "Division" means the Division of State History created in Section 9-8-201.

(9) "Excavate" means the recovery of archaeological resources.

(10) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

(11) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(12) "Museum" means the Utah Museum of Natural History.

(13) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

(14) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

(15) "Repository" is defined as provided in Section 53B-17-603.

(16) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

(17) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

(18) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

(19) "State historic preservation officer" means that position mentioned in 16 U.S.C. Sec. 470a, as amended.

(20) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees; and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

- (i) land owned by a political subdivision of the state;
- (ii) land owned by a school district;
- (iii) private land; or
- (iv) school and institutional trust lands.

(21) "Survey" means a surface investigation for archaeological resources that may include:

- (a) insubstantial surface collection of archaeological resources; and
- (b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Amended by Chapter 231, 2007 General Session

9-8-304. Antiquities Section created -- Duties.

- (1) There is created within the division the Antiquities Section.
- (2) The Antiquities Section shall:
 - (a) promote research, study, and activities in the field of antiquities;
 - (b) assist with the marking, protection, and preservation of sites;
 - (c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;
 - (d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;
 - (e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:
 - (i) Section 9-8-309;
 - (ii) Section 9-9-403;
 - (iii) Subsection 76-9-704(3); and
 - (iv) federal law;
 - (f) collect and administer site survey and excavation records;
 - (g) edit and publish antiquities records;
 - (h) inform the state historic preservation officer in writing about any request for advice or consultation from an agency or an agency's agent; and
 - (i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.
- (3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.
- (4) Before performing the duties specified in Subsections (2)(a) through (e), the Antiquities Section shall obtain permission from the landowner.

Amended by Chapter 231, 2007 General Session

9-8-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.

(1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.

(b) A principal investigator who holds a valid permit under this section may allow other individuals to assist the principal investigator in a survey or excavation if the principal investigator ensures that all the individuals comply with the law, the rules, the permit, and the appropriate professional standards.

(c) A person, other than a principal investigator, may not survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration unless the person works under the direction of a principal investigator who holds a valid permit.

(d) A permit obtained before July 1, 2006 shall continue until the permit terminates on its own terms.

(2) (a) To obtain a survey permit, a principal investigator shall:

(i) submit a permit application on a form furnished by the Public Lands Policy Coordinating Office;

(ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology, archaeology, or history;

(iii) have one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management; and

(iv) have one year of supervised field and analytical experience in Utah prehistoric or historic archaeology.

(b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal investigator may submit evidence of training and experience equivalent to a graduate degree.

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

(3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a principal investigator shall, in addition to complying with Subsection (2)(a), submit:

(i) a research design to the Public Lands Policy Coordinating Office and the Antiquities Section that:

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

(E) outlines the expected results and the plan for reporting;

(F) evaluates expected contributions of the proposed work to archaeological or anthropological science; and

(G) estimates the cost and the time of the work that the principal investigator believes is necessary to provide the maximum amount of historic, scientific, archaeological, anthropological, and educational information; and

(ii) proof of permission from the landowner to enter the property for the purposes of the permit.

(b) An excavation permit is valid for the amount of time specified in the permit, unless the permit is revoked according to Subsection (9).

(c) The Public Lands Policy Coordinating Office may delegate to an agency the authority to issue excavation permits if the agency:

- (i) requests the delegation; and
- (ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

(d) The Public Lands Policy Coordinating Office shall conduct an independent review of the delegation authorized by Subsection (3)(c) every three years and may revoke the delegation at any time without cause.

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section;

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project; and

(c) assemble a committee of qualified individuals to advise the Public Lands Policy Coordinating Office in its duties under this section.

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

- (a) establish survey methodology;
- (b) standardize report and data preparation and submission;
- (c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;

(d) establish what training and experience is equivalent to a graduate degree;

(e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;

(f) establish requirements for a principal investigator's employer, if applicable; and

(g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

- (a) site forms;
- (b) data;
- (c) maps;
- (d) drawings;
- (e) photographs; and
- (f) descriptions of specimens.

(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section 53B-17-603.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

(10) (a) Any person violating this section is guilty of a class B misdemeanor.

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the respective trust.

(11) The division may enter into memoranda of agreement to issue project numbers or to retain other data for federal lands or Native American lands within the state.

Amended by Chapter 382, 2008 General Session

9-8-306. Archaeological or anthropological landmarks.

(1) Sites of significance may be recommended to and approved by the board as state archaeological or anthropological landmarks. No privately owned site or site on school or institutional trust lands may be so designated without the written consent of the owner.

(2) A person may not excavate upon a privately owned designated landmark without a permit from the division.

(3) Before any alteration is commenced on a designated landmark, three months' notice of intent to alter the site shall be given the division.

Amended by Chapter 170, 1995 General Session

9-8-307. Report of discovery on state or private lands.

(1) Any person who discovers any archaeological resources on lands owned or controlled by the state or its subdivisions shall promptly report the discovery to the division.

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the division.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4.

(4) Nothing in this section may be construed to authorize any person to survey or excavate for archaeological resources.

Amended by Chapter 170, 1995 General Session

9-8-308. Forgery or false labeling of specimens unlawful.

It is unlawful to reproduce, rework, or forge any specimen or make any object, whether copied or not, or falsely label, describe, identify, or offer for sale or exchange any object, with intent to represent it as an original and genuine specimen. No person may offer for sale or other exchange any object with knowledge that it was collected or excavated in violation of this part.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-309. Ancient human remains on nonfederal lands that are not state lands.

(1) (a) After April 30, 2007, if a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

(i) the person shall:

(A) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection (1)(d);

(B) notify a local law enforcement agency in accordance with Section 76-9-704; and

(C) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

(ii) the person who owns or controls the nonfederal land shall:

(A) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection (1)(d); and

(B) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection (1)(d).

(b) (i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

(B) if the landowner gives the landowner's permission, excavate the human

remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

(II) if extraordinary circumstances exist as provided in Subsection (1)(c), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

(c) (i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection (1)(c), the executive director shall:

(A) decide on the appeal within two business days; and

(B) (I) uphold the decision of the director; or

(II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection (1)(c) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection (1)(c) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection (1)(b)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in possession of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The division, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Amended by Chapter 382, 2008 General Session

9-8-401. Purpose.

The Legislature determines and declares that the public has a vital interest in all antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss to the people of this state.

Renumbered and Amended by Chapter 241, 1992 General Session

Renumbered and Amended by Chapter 286, 1992 General Session

9-8-402. State register -- Division duties.

(1) As used in this part, "State Register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

(2) The division shall:

(a) constitute the historic preservation agency for this state;

(b) establish a state register for the orderly identification and recognition of the state's cultural resources; and

(c) provide for participation in the National Historic Preservation Program.

Amended by Chapter 170, 1995 General Session

9-8-403. Placement on State or National Register.

The board shall notify owners of sites, buildings, structures, or objects before placing those sites, buildings, structures, or objects on the State Register or nominating them to the National Register.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-404. Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.

(1) (a) Before expending any state funds or approving any undertaking, each agency shall:

(i) take into account the effect of the expenditure or undertaking on any historic property; and

(ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property.

(b) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(c) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d).

(c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:

(i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;

(ii) the ownership of the land involved;

(iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and

(iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

(i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and

(ii) at least one plan for the identification, recovery, or excavation of historic

properties that does not substantially increase the cost of the proposed undertaking.

(3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

(ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.

(b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).

(c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of archaeological information at current standards of scientific rigor.

(4) (a) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of comments the state historic preservation officer intends to make or has made as required or authorized by the National Historic Preservation Act, 16 U.S.C. Sec. 470 et seq.

(b) At the request of the Public Lands Policy Coordinating Office, the state historic preservation officer shall discuss the comments with the Public Lands Policy Coordinating Office.

Amended by Chapter 292, 2006 General Session

9-8-405. Federal funds -- Agreements on standards and procedures.

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, the division may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Amended by Chapter 382, 2008 General Session

9-8-501. Short title.

This part shall be known as the "Historical Preservation Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-502. Legislative finding.

The Legislature finds and declares that preservation and restoration of historically significant real property and structures as identified by the State Register of Historic Sites are in the public interest of the people of the state of Utah and should be

promoted by the laws of this state.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-503. Preservation easement.

Any owner of a fee simple interest in real property may convey, and any other party entitled to own real property interests may accept, a preservation easement pertaining to the real property if the real property possesses historical value that will be enhanced or preserved by the terms of the easement regarding restoration or preservation of the real property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-504. Preservation easement -- Subject to other laws.

Except as provided in this part, preservation easements are subject to the other laws of this state governing easements, generally. Any preservation easement may, with respect to the burdened land, entitle its owner to take certain action, to require certain action to be taken by the owner of the burdened land, or require that certain action not be taken by the owner of the burdened land, and under any such circumstances may be either appurtenant or in gross.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-505. Rule Against Perpetuities and Rule Restricting Unreasonable Restraints on Alienation not applicable.

The rule of property known as the Rule Against Perpetuities and the rule of property known as the Rule Restricting Unreasonable Restraints on Alienation may not be applied to defeat any of the provisions of this part or of any deed, lease, conveyance, covenant, easement, or other interest created or document executed in accordance with the provisions of this part.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-506. Charitable contribution for tax purposes.

Any conveyance of a preservation easement may be deemed a charitable contribution for tax purposes in accordance with the laws, rules, and regulations pertaining to charitable contributions of interests in real property.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-601. Definitions.

As used in this part:

(1) "Complete" means to be similar in nature and purpose to an encyclopedia, wherein all of the meaningful events that took place in the county are covered, including ecclesiastic, political, educational, economic, and social events.

(2) "Division" means the Division of State History.

(3) "Reliable" means information that is as correct and factual as possible, well-documented, and based on established precedent.

Enacted by Chapter 30, 1991 General Session

9-8-602. Authority to write and publish county history -- Administration of project.

(1) Any county may enter into an agreement with the division to write and publish a complete and reliable history of that county. The county may designate its county historical society, other agency of county government, or other entity to represent the county for purposes of this agreement.

(2) The division shall supervise and administer this project to write and publish the complete and reliable history of each county and shall render professional expertise to the county or its designee as needed.

Enacted by Chapter 30, 1991 General Session

9-8-603. Standards -- Publication.

(1) The writing and publishing of each history shall meet good historiographical and other professional standards as prescribed and approved by the division. The history shall be identified as the Centennial History of the County.

(2) After approval by the division, each county history may bear, with the approval of the Utah State Centennial Commission, the state centennial history logo and shall be compiled, published, and offered to the public before December 31, 1996, as part of the county's and state's centennial celebrations at a cost not to exceed the cost of printing and binding. The proceeds of the sales shall be returned to the county.

Enacted by Chapter 30, 1991 General Session

9-8-701. Definitions.

As used in this part:

(1) "Board" means the Board of State History.

(2) "Division" means the Division of State History.

(3) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.

(4) "Qualifying organization" means any Utah nonprofit history organization or local government that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

(5) "State fund" means the Utah History Endowment Fund created under Section 9-8-702.

Enacted by Chapter 121, 1991 General Session

9-8-702. Utah History Endowment Fund.

There is created an expendable special revenue fund known as the "Utah

History Endowment Fund." The state fund shall be administered by the Division of Finance in accordance with applicable law. The state fund shall contain all money appropriated to it by the Legislature and the interest and other income earned on the fund. The purpose of the state fund is to provide money to qualifying organizations to enable them to create their own history endowment funds.

Amended by Chapter 400, 2013 General Session

9-8-703. History organization endowment funds.

(1) Any qualifying organization may create an endowment fund into which there may be deposited money from the state fund. The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the Division of Finance on behalf of the qualifying organization. Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization. The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act of 1974.

(2) Each endowment fund shall be administered in accordance with generally accepted accounting principles by professional endowment management personnel. If no professional endowment management personnel is available to the qualifying organization, it shall place its endowment fund in a state trust and agency fund administered by the Division of Finance, which shall allocate interest income to the qualifying organization annually.

(3) If an endowment fund is administered by the Division of Finance the costs for this administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization by the Division of Finance.

Enacted by Chapter 121, 1991 General Session

9-8-704. Division duties.

The division shall, according to policy established by the board:

(1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-8-703;

(2) determine the eligibility of each qualifying organization to receive money from the state fund into the endowment fund of the qualifying organization;

(3) determine the matching amount each qualifying organization must raise in order to qualify to receive money from the state fund;

(4) establish a date by which each qualifying organization must provide its matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria by rule not otherwise prescribed in this chapter for determining the eligibility of qualifying organizations to receive money from the state fund.

Amended by Chapter 382, 2008 General Session

9-8-705. Eligibility requirements of qualifying history organizations -- Allocation limitations -- Matching requirements.

(1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund it has created under Section 9-8-703:

(a) if it has received a grant from the division during one of the three years immediately before making application for state fund money under this Subsection (1); or

(b) if it has not received a grant from the division within the past three years, it may receive a grant upon approval by the division according to policy of the board.

(2) (a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the division in a format to be developed in consultation with the board.

(b) The minimum amount that may be allocated to each qualifying organization from the state fund is \$2,500.

(3) After the division determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the state fund, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose. State money and in-kind contributions may not be used to match money from the state fund.

(4) Endowment match money shall be based on a sliding scale as follows:

(a) amounts requested up to \$20,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed \$20,000 but not exceed \$50,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed \$50,000 shall be matched three-to-one.

(5) (a) Qualifying organizations shall raise the matching amount by a date determined by the board.

(b) Money from the state fund shall be released to the qualifying organization only upon verification by the division that the matching money has been received on or before the date determined under Subsection (5)(a). Verification of matching funds shall be made by a certified public accountant.

(c) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than \$2,500 as audited confirmation of matching funds is received by the board.

(d) Money from the state fund shall be granted to each qualifying organization on the basis of the matching funds it has raised by the date determined under Subsection (5)(a).

Amended by Chapter 324, 2010 General Session

9-8-706. Unallocated money.

Money in the state fund that is unallocated shall be reallocated by the division on a proportionate basis, not exceeding existing match, to qualifying organizations that raise more than 100% of their required match by the date determined by the board.

Amended by Chapter 342, 2011 General Session

9-8-707. Spending restrictions -- Return of endowment.

(1) A qualifying organization, once it has received its endowment money from the state fund, may not expend any of the money or the required matching money in its endowment fund, but may expend only the interest income earned on the money in its endowment fund.

(2) If a qualifying organization expends any amount of the endowment money received from the state fund or any amount of the required matching money, the qualifying organization shall return the amount it received from the state fund. The division shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-8-706.

Amended by Chapter 342, 2011 General Session

9-8-708. Federal match.

The creation of the state fund and the use of its money to enable qualifying organizations to create their own endowment funds may be construed as a state match for any history funding from the federal government that may be provided.

Enacted by Chapter 121, 1991 General Session

9-8-801. Short title.

This part is known as the "Preserve Our Heritage Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-802. Definitions.

As used in this part:

(1) "Agency" means any administrative unit of Utah's state government or local government.

(2) "Collecting institutions" means historical societies, museums, archives, and libraries that:

(a) are operated by nonprofit corporations in Utah or by any Utah agency; and

(b) preserve our heritage and benefit society by acquiring and preserving repositied materials.

(3) "Repositied materials" means materials of historical, artistic, literary, or scientific value that are deposited in a collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-803. Ownership of repositied materials -- Rebuttable presumption.

(1) There is established a rebuttable presumption that any repositied materials held by a collecting institution are the property of that collecting institution.

(2) Any person seeking to claim repositied materials from a collecting institution shall comply with the requirements of this part.

Amended by Chapter 4, 1993 General Session

9-8-804. Statute of limitations for claiming repositied materials from a collecting institution.

(1) Any repositied materials in a collecting institution that are not accompanied by a transfer of title to those materials are considered a gift to the collecting institution when more than 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.

(2) No depositor or any of his successors may bring an action against the collecting institution to recover the repositied materials from the collecting institution after 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-805. Collecting institutions -- Perfecting title -- Notice.

(1) (a) Any collecting institution wishing to perfect title in any repositied materials held by it shall send, by registered mail, a notice containing the information required by this section to the last-known address of the last-known owner of the property.

(b) The collecting institution shall publish a notice containing the information required by this section:

(i) if:

(A) the owner or the address of the owner of the repositied materials is unknown;

(B) the mailed notice is returned to the collecting institution without a forwarding address; or

(C) the owner does not claim the repositied materials within 90 days after the notice was mailed; and

(ii) (A) by publication at least once per week for two consecutive weeks in a newspaper of general circulation in the county where the collection institution is located; and

(B) by publication in accordance with Section 45-1-101 for two weeks.

(2) The notices required by this section shall include:

(a) the name, if known, and the last-known address, if any, of the last-known owner of the repositied materials;

(b) a description of the repositied materials;

(c) the name of the collecting institution that has possession of the repositied materials and a person within that institution whom the owner may contact; and

(d) a statement that if the repositied materials are not claimed within 90 days from the date that the notice is published in accordance with Subsection (1)(b), the repositied materials are considered to be abandoned and become the property of the collecting institution.

(3) If no one has claimed the repositied materials within 90 days after the date that the notice is published in accordance with Subsection (1)(b), the repositied materials are considered to be abandoned and are the property of the collecting institution.

Amended by Chapter 388, 2009 General Session

9-8-806. Claiming repositied materials held by a collecting institution.

(1) Any person claiming title to repositied materials held by a collecting institution shall demonstrate that he owns all right, title, and interest in the repositied materials to the reasonable satisfaction of the collecting institution.

(2) (a) Any person claiming to represent a person claiming title to repositied materials held by a collecting institution shall demonstrate, to the reasonable satisfaction of the collecting institution, that:

(i) he represents every person who owns any right, title, or interest in the repositied materials; and

(ii) the persons he represents own all right, title, and interest in the repositied materials.

(b) Any person claiming he represents persons holding all right, title, and interest in the repositied materials may demonstrate that representation by providing the collecting institution with a notarized authorization from every person having any right, title, or interest in the repositied materials.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-101. Title -- Definitions.

(1) This chapter is known as the "Utah Division of Indian Affairs Act."

(2) (a) As used in this chapter, "division" means the Utah Division of Indian Affairs created in Section 9-9-102.

(b) As used in this part, "Indian tribe" or "tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Amended by Chapter 50, 1999 General Session

9-9-102. Division of Indian Affairs created -- Supervision by department.

(1) There is created within the department a Utah Division of Indian Affairs.

(2) The division shall be under the administration and general supervision of the department.

Amended by Chapter 50, 1999 General Session

9-9-103. Purpose.

The division shall:

(1) develop programs that will allow Indian citizens residing on or off reservations an opportunity to share in the progress of Utah;

(2) promote an atmosphere in which Indian citizens are provided alternatives so that individual citizens may choose for themselves the kinds of lives they will live, both socially and economically;

(3) promote programs to help the tribes and Indian communities find and implement solutions to their community problems; and

(4) promote government-to-government relations between the state and tribal

governments.

Amended by Chapter 50, 1999 General Session

9-9-104. Duties and powers.

- (1) The division shall:
 - (a) have all of the functions, powers, duties, rights, and responsibilities granted to it by this chapter;
 - (b) staff those committees or boards as specified in this chapter; and
 - (c) in accordance with policies set by state government, coordinate relations between:
 - (i) the state;
 - (ii) tribal governments;
 - (iii) other Indian groups; and
 - (iv) federal agencies.
- (2) The division may:
 - (a) contract with public and private entities to provide services or facilities;
 - (b) acquire and hold funds or other property for the administration of the programs outlined in this chapter;
 - (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the duties of the division;
 - (d) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of Indians; and
 - (e) apply or dispose of those gifts, grants, devises, and property received under Subsection (2)(d) for the use and benefit of Indians within the state.

Amended by Chapter 382, 2008 General Session

9-9-104.5. Meetings with Tribal Leaders and Native American Indian organizations.

- (1) The division shall meet regularly with:
 - (a) elected officials of Indian Tribal Nations located in whole or in part in the state; or
 - (b) individuals designated by elected officials of the Indian Tribal Nations described in Subsection (1)(a).
- (2) (a) Subject to Section 9-9-104.6, at least six times each year, the division shall coordinate and attend a joint meeting of the representatives of tribal governments listed in Subsection (2)(b) for the purpose of coordinating the efforts of state and tribal governments in meeting the needs of the Native American Indians residing in Utah.
 - (b) (i) The representatives to be included in the meeting described in Subsection (2)(a) shall be elected officials, serve as representatives for their entire elected term, and be selected as follows:
 - (A) as a nonvoting member, an elected official of the Navajo Nation, Window Rock, Arizona, selected by the Navajo Nation, if the Navajo Nation chooses to select an elected official;
 - (B) the Navajo Nation council delegate that represents the Utah Navajo

Chapters, as defined in Section 35A-8-1702, if the council delegate resides in San Juan County, Utah, or if the council delegate does not reside in San Juan County, Utah, a president of a Utah Navajo Chapter selected by the presidents of the Utah Navajo Chapters;

(C) an elected official of the Ute Indian Tribe of the Uintah and Ouray Reservation selected by the Uintah and Ouray Tribal Business Committee;

(D) an elected official of the Paiute Indian Tribe of Utah selected by the Paiute Indian Tribe of Utah Tribal Council;

(E) an elected official of the Northwestern Band of the Shoshone Nation that resides in Utah or Idaho selected by the Northwestern Band of the Shoshone Nation Tribal Council;

(F) an elected official of the Confederated Tribes of the Goshute selected by the Confederated Tribes of the Goshute Reservation Tribal Council;

(G) an elected official of the Skull Valley Band of Goshute Indians selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;

(H) as a nonvoting member, an elected official of the Ute Mountain Ute Tribe, Colorado, selected by the Ute Mountain Ute Tribal Nation, if the Ute Mountain Ute Tribal Nation chooses to select an elected official;

(I) an elected official of the Ute Mountain Ute Tribe that resides in Utah selected by the Ute Mountain Ute Tribal Council; and

(J) an elected official of the San Juan Southern Paiute Tribe, residing in Utah or Arizona, selected by the San Juan Southern Paiute Tribal Council.

(ii) Notwithstanding Subsection (2)(b)(i), if an elected official of an Indian Tribal Nation provides notice to the division, the Indian Tribal Nation may designate an individual other than the elected official selected under Subsection (2)(b)(i) to represent the Indian Tribal Nation at an individual meeting held under Subsection (2)(a).

(iii) A majority of voting members listed in Subsection (2)(b)(i) constitutes a quorum for purposes of a meeting held under Subsection (2)(a). An action of a majority of voting members present when a quorum is present constitutes action of the representatives for purposes of a meeting described in Subsection (2)(a).

(c) (i) A meeting held in accordance with Subsection (2)(a) is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(ii) A meeting of representatives listed in Subsection (2)(b) is not subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act, notwithstanding whether it is held on the same day as a meeting held in accordance with Subsection (2)(a) if:

(A) the division does not coordinate the meeting described in this Subsection (2)(c)(ii);

(B) no state agency participates in the meeting described in this Subsection (2)(c)(ii);

(C) a representative receives no per diem or expenses under this section for attending the meeting described in this Subsection (2)(c)(ii) that is in addition to any per diem or expenses the representative receives under Subsection (2)(d) for attending a meeting described in Subsection (2)(a); and

(D) the meeting described in this Subsection (2)(c)(ii) is not held:

(I) after a meeting described in Subsection (2)(a) begins; and

(II) before the meeting described in Subsection (2)(c)(ii)(D)(I) adjourns.

(d) A representative of a tribal government that attends a meeting held in accordance with Subsection (2)(a) may not receive compensation or benefits for the representative's service, but may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(e) For a meeting described in Subsection (2)(a), only the individuals described in Subsection (2)(b) may receive per diem and expenses, as provided in Subsection (2)(d).

(3) The division may meet as necessary with Native American Indian groups other than tribal governments representing the interests of Native American Indians who are citizens of the state residing on or off reservation land.

Amended by Chapter 203, 2013 General Session

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) (i) the American Indian-Alaskan Native Health Liaison appointed in accordance with Section 26-7-2.5; or

(ii) if the American Indian-Alaskan Native Health Liaison is not appointed, a representative of the Department of Health appointed by the executive director of the Department of Health; and

(d) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Development;

(v) the State Office of Education; and

(vi) the State Board of Regents.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and
(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

- (i) the Department of Agriculture and Food;
- (ii) the Department of Heritage and Arts;
- (iii) the Department of Corrections;
- (iv) the Department of Environmental Quality;
- (v) the Department of Public Safety;
- (vi) the Department of Transportation;
- (vii) the Office of the Attorney General;
- (viii) the State Tax Commission; and
- (ix) any agency described in Subsection (2)(c) or (d).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 212, 2012 General Session

9-9-105. Division director.

(1) The executive director of the department shall appoint the director of the division with the approval of the governor.

(2) The director shall be a person knowledgeable in the field of Indian affairs and experienced in administration.

Amended by Chapter 190, 1992 General Session

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-107. Annual report.

The division shall submit, before November 1, an annual written report of its operations and recommendations to:

- (1) the department;
- (2) the governor; and
- (3) the Native American Legislative Liaison Committee created in Section

36-22-1.

Amended by Chapter 255, 2013 General Session

9-9-108. Investments.

Funds not allocated for use by the division shall be invested in accordance with

Section 51-7-11.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-201. Assumption by state of criminal and civil jurisdiction over Indians and Indian territory.

The state of Utah hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, country, and lands or any portion thereof within this state in accordance with the consent of the United States given by the Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), to the extent authorized by that act and this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-202. Special elections on acceptance or retrocession of state jurisdiction.

(1) State jurisdiction acquired or retroceded pursuant to this chapter with respect to criminal offenses or civil causes of action shall be applicable in Indian country only where the enrolled Indians residing within the affected area of the Indian country accept state jurisdiction or request its retrocession by a majority vote of the adult Indians voting at a special election held for that purpose.

(2) These special elections shall be called pursuant to federal law.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-203. Acceptance or rejection of cession of state jurisdiction -- Proclamation by governor.

(1) If the governor receives a resolution signed by the majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any tribe, community, band or group in the state certifying the results of a special election expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or group or its lands or any portion thereof to the state of Utah within the limits authorized by federal law, he shall either accept or reject the cession of jurisdiction within 60 days.

(2) If the governor accepts jurisdiction, he shall issue a proclamation within 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the limitations of this chapter, to all Indians and all Indian territory, country, lands or any portion thereof of the Indian body involved to the extent authorized by the resolution. Failure to issue the proclamation within the time prescribed is considered a rejection of the assumption of jurisdiction.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-204. Criminal jurisdiction.

The state of Utah shall assume jurisdiction over offenses as set forth in this chapter, committed by or against Indians in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has

jurisdiction over offenses committed elsewhere within the state. The criminal laws of the state shall have the same force and effect within these lands as they have elsewhere within the state.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-205. Civil jurisdiction.

The state of Utah shall assume jurisdiction over civil causes of action as set forth in this chapter, between Indians or to which Indians are parties in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has jurisdiction over civil causes of action as elsewhere within the state. The civil laws of the state shall have the same force and effect within these lands as they have elsewhere within the state, except as otherwise provided by this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-206. State jurisdiction subject to provisions of federal law and resolution of tribe.

The jurisdiction assumed pursuant to this chapter is subject to the limitations and provisions of the federal Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), and the specific limitations set forth in each resolution ceding jurisdiction to the state, both as to geographical area and subject matter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-207. Retrocession of state jurisdiction -- Proclamation by governor.

(1) The state of Utah hereby obligates and binds itself to retrocede all or any measure of the criminal or civil jurisdiction acquired by it pursuant to this chapter whenever the governor receives a resolution from a majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any Indian tribe, community, band or group in this state, certifying the results of a special election and expressly requesting the state to retrocede jurisdiction over its people or lands or any portion thereof within the limits authorized by the Act of Congress of April 11, 1968, 82 Stat., 78-80 (Public Law 284, 90th Congress).

(2) The governor shall issue within 60 days a proclamation to the effect that jurisdiction has been retroceded for all these Indians and all Indian territory, country, lands or any portion thereof.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-208. Limitations on state authority with respect to property and rights of Indians.

Nothing in this chapter:

(1) authorizes the alienation, encumbrance, or taxation of any real or personal property, including water rights belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against

alienation imposed by the United States;

(2) authorizes the regulation of the use of this property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant to them;

(3) confers jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of this property or any interest in it; or

(4) enlarges, diminishes, or deprives any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation of these.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-209. Tribal ordinance or custom given full force and effect.

Any tribal ordinance or custom adopted by an Indian tribe, band, or community in the exercise of any authority that it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-210. Criminal jurisdiction of state over hunting, trapping, or fishing offenses on reservations -- "Indian reservation" defined.

As used in this part, "Indian reservation" means:

(1) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights of way running through the reservation; and

(2) all Indian allotments, to which the Indian titles have not been extinguished, including rights of way, thereon.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-211. Hunting, trapping, or fishing on reservation a misdemeanor.

Any person who, without lawful authority or permission from constituted tribal authorities, willfully and knowingly goes upon any real property within an Indian reservation belonging to any Indian, or any Indian tribe, band, or community, that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, is guilty of a misdemeanor, and all game, fish and peltries in his possession shall be forfeited to the tribe.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-212. Jurisdiction of tribe over hunting, trapping, or fishing offenses by member.

This chapter does not extend to offenses committed by an enrolled member of a

federally recognized Indian tribe who is subject to the law of the tribe having jurisdiction of the Indian reservation, or in any case where the exclusive jurisdiction over the offense is, or may be, secured to the Indian tribes respectively.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-213. Concurrent state and federal jurisdiction over hunting, trapping, or fishing offenses on reservations.

(1) With respect to any of the offenses enumerated in this chapter, over which federal courts may have lawful jurisdiction, the jurisdiction of the courts of the state of Utah shall be concurrent and not exclusive.

(2) It shall be the duty of the courts of the state of Utah to order delivery to the proper authorities of the federal government for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-401. Short title.

This part is known as the "Native American Grave Protection and Repatriation Act."

Enacted by Chapter 286, 1992 General Session

9-9-402. Definitions.

As used in this part:

(1) "Antiquities Section" means the Antiquities Section of the Division of History.

(2) "Burial site" means a natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) "Cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) "Director" means the director of the Division of Indian Affairs.

(5) "Division" means the Division of Indian Affairs.

(6) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) "Lineal descendant" means the genealogical descendant established by oral or written record.

(8) "Native American" means of or relating to a tribe, people, or culture that is indigenous to the United States.

(9) "Native American remains" means remains that are Native American.

(10) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

- (i) land owned or controlled by:
 - (A) the state;
 - (B) a county, city, or town;
 - (C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or
 - (D) a person other than the federal government; or
- (ii) school and institutional trust lands as defined in Section 53C-1-103.
- (11) "Remains" means all or part of a physical individual and objects on or attached to the physical individual that are placed there as part of the death rite or ceremony of a culture.
- (12) "Review committee" means the Native American Remains Review Committee created by Section 9-9-405.
- (13) (a) "State land" means land owned by the state including the state's:
 - (i) legislative and judicial branches;
 - (ii) departments, divisions, agencies, boards, commissions, councils, and committees; and
 - (iii) institutions of higher education as defined under Section 53B-3-102.
- (b) "State land" does not include:
 - (i) land owned by a political subdivision of the state;
 - (ii) land owned by a school district;
 - (iii) private land; or
 - (iv) school and institutional trust lands as defined in Section 53C-1-103.

Amended by Chapter 114, 2008 General Session

9-9-403. Ownership and disposition of Native American remains.

- (1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:
 - (a) first, in the lineal descendants of the Native American;
 - (b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:
 - (i) has the closest cultural affiliation with the Native American remains; and
 - (ii) states a claim for the Native American remains; or
 - (c) third:
 - (i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:
 - (A) cultural affiliation of the Native American remains cannot be reasonably ascertained;
 - (B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and
 - (C) that tribe states a claim for the Native American remains; or
 - (ii) in a different tribe if:
 - (A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be disposed of in accordance with rules made by the division:

(a) consistent with Chapter 8, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

(3) The intentional removal or excavation of Native American remains from state lands may be permitted only if:

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section 9-8-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

(c) the ownership or right of control of the disposition of the Native American remains is determined as provided in Subsections (1) and (2).

(4) (a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992 shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in Chapter 8, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and

(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

(c) Following notification under Subsections (4)(a) and (b) and upon certification by the head of the appropriate state agency that notification is received, the activity may resume after compliance with Section 76-9-704.

(5) (a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b) (i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6) (a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary authority over the lands as provided in Chapter 8, Part 3, Antiquities,

may retain the remains until:

- (i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;
 - (ii) the dispute is resolved through an administrative process:
 - (A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or
 - (iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.
- (7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section 9-8-309.
- (8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.
- (9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

Amended by Chapter 114, 2008 General Session

9-9-404. Illegal trafficking.

- (1) Any person who knowingly sells, purchases, uses for profit, or transports for sale or profit the remains of a Native American without the right of possession to those remains as provided in this part is guilty of a class A misdemeanor. In the case of a second or subsequent violation the person is guilty of a third degree felony.
- (2) Any person who knowingly sells, purchases, exchanges, receives, uses for profit, or transports for sale or profit any Native American remains obtained in violation of this part is guilty of a class A misdemeanor. In the case of a second or subsequent violation the person is guilty of a third degree felony.

Enacted by Chapter 286, 1992 General Session

9-9-405. Review committee.

- (1) There is created a Native American Remains Review Committee.
- (2) (a) The review committee shall be composed of seven members as follows:
- (i) four Tribal members shall be appointed by the director from nominations submitted by the elected officials of Indian Tribal Nations described in Subsection 9-9-104.5(2)(b); and
 - (ii) three shall be appointed by the director from nominations submitted by representatives of Utah's repositories.
- (b) A member appointed under Subsection (2)(a)(i) shall have familiarity and experience with this part.
- (c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director, and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation. Removal of a member who represents an Indian Tribal Nation requires

the joint decision of the director and the Indian Tribal Nation.

(ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director, and if the member represents a repository, at the will of the Division of State History. Removal of a member who represents a repository requires the joint decision of the director and the Division of State History.

(d) When a vacancy occurs in the membership for any reason, the director shall appoint a replacement in the same manner as the original appointment under Subsection (2)(a).

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(f) The review committee shall designate one of its members as chair.

(3) The review committee shall:

(a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;

(b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):

(i) the identity or cultural affiliation of Native American remains; or

(ii) the return of Native American remains;

(c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;

(d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;

(e) consult with the division in the development of rules to carry out this part;

(f) perform other related functions as the division may assign to the review committee; and

(g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.

(4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.

(5) The appropriate state agency having primary authority over the lands as provided in Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:

(a) Native American remains under review; and

(b) associated scientific and historical documents.

(6) The division shall provide reasonable administrative and staff support necessary for the deliberations of the review committee.

(7) The review committee shall submit, before November 1, an annual written report to the Native American Legislative Liaison Committee, created in Section 36-22-1, on the progress made, and any barriers encountered, in implementing this

section during the previous year.

Amended by Chapter 203, 2013 General Session

Amended by Chapter 255, 2013 General Session

9-9-406. Savings provision.

Nothing in this part may be construed to:

(1) limit the authority of a state agency to:

(a) return or repatriate Native American remains to Indian tribes or individuals;

or

(b) enter into another agreement with the consent of the lineal descendant or culturally affiliated tribe as to the disposition or control over Native American remains;

(2) delay actions on repatriation requests that are pending on March 17, 1992;

(3) deny or otherwise affect access to any court, except as provided in

Subsection 9-9-403(6);

(4) limit any procedural or substantive rights that may otherwise be secured to individuals or Indian tribes; or

(5) limit the application of any state or federal law pertaining to theft or stolen property.

Amended by Chapter 114, 2008 General Session

9-17-101. Title.

This chapter is known as the "Humanitarian Service and Educational and Cultural Exchange Restricted Account Act."

Enacted by Chapter 166, 2010 General Session

9-17-102. Humanitarian Service and Educational and Cultural Exchange Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Humanitarian Service and Educational and Cultural Exchange Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have a national parent organization which:

(i) provides international humanitarian service projects; and

(ii) has youth programs including programs to foster leadership in high school students, humanitarian service in high school and college, and conducts and promotes community service projects;

(c) have a non-profit youth exchange program that does not compensate those who administer the program within the state;

(d) have an annual leadership conference, which does not compensate those who administer the program within the state;

(e) have high school service clubs, which promote humanitarian services on a state level, a national level, and an international level; and

(f) have college service clubs, which promote humanitarian service on a state level, a national level, and an international level.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) pay the costs of supporting the following programs within the state:

(A) youth programs including programs to foster leadership in high school students and humanitarian service in high school and college;

(B) community service projects;

(C) a non-profit youth exchange program;

(D) an annual leadership conference;

(E) high school service clubs, which promote humanitarian service on a state level, a national level, and an international level; and

(F) college service clubs, which promote humanitarian service on a state level, a national level, and an international level; and

(ii) pay the costs of issuing or reordering Humanitarian Service and Educational and Cultural Exchange support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (3).

Amended by Chapter 303, 2011 General Session

9-18-101. Title.

This chapter is known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account Act."

Enacted by Chapter 332, 2012 General Session

9-18-102. Martin Luther King, Jr. Civil Rights Support Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) is located within the state and is not affiliated with a parent organization;

(c) create or support programs that promote awareness and education of constitutional and civil rights;

(d) provide education and training in inalienable rights as set forth in the Declaration of Independence;

(e) partner with educational institutions to administer underrepresented or underserved scholarships; and

(f) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) facilitate, coordinate, and encourage appropriate ceremonies and activities that commemorate the federal Martin Luther King, Jr. holiday;

(ii) create or support programs that promote awareness and education of constitutional and civil rights;

(iii) provide education and training in inalienable rights as set forth in the Declaration of Independence;

(iv) partner with educational institutions to administer underrepresented or underserved scholarships;

(v) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program; and

(vi) pay the costs of issuing or reordering Martin Luther King, Jr. Civil Rights Support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (3).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Enacted by Chapter 332, 2012 General Session